publicity of such events creates a sense of alarm and urgency among citizens. These high profile cases, are partly responsible for the increase in sex offender residency restrictions in recent years. In reality, however, such cases are extremely rare. Approximately 100 stranger abductions occur in the United States each year. *See* Center for Missing and Exploited Children, at http://www.missingkids.com (last visited Nov. 1, 2005). Less than 1% of all murders involve sexual assault, and in fact, the prevalence of sexual murders declined by about half between the late 1970's and the mid-1990's. BUREAU OF JUSTICE STATISTICS, SEX OFFENSES AND OFFENDERS: AN ANALYSIS OF DATA ON RAPE AND SEXUAL ASSAULT, 27 (1997).

Moreover, a 2000 Department of Justice study found that 93% of child sexual abuse victims knew their abuser, 34.2% were family members, and 58.7% were acquaintances. BUREAU OF JUSTICE STATISTICS, SEXUAL ASSAULT OF YOUNG CHILDREN AS REPORTED TO LAW ENFORCEMENT: VICTIM, INCIDENT, AND OFFENDER CHARACTERISTICS, 10 (2000). Only 7% of child victims reported that they were abused by strangers. *Id.*[4]

---

[4] A consequence of the Iowa statute is that all sex offenders must live at least 2000 feet from schools and childcare centers. Thus, the impact of these laws would be to either permanently separate offenders from their families and children who depend on them, or to force entire families to relocate, creating psychological and financial hardship to innocent family members. This includes the forced relocation of children away from their schools and their friends. Consequently, this may create a strong incentive for children not to report sexual abuse committed upon them by members of their household. Of course, that is counterproductive to the goal of keeping children safe from sexual abuse.

Proponents of sex offender residency statutes also point to allegedly high sex offender recidivism rates as a justification for such laws. Recent research, however, contradicts the myth that most sex offenders will re-offend. For example, the Department of Justice found that 5.3% of sex offenders were rearrested for a new sex crime within three years after release from prison. BUREAU OF JUSTICE STATISTICS, RECIDIVISM OF SEX OFFENDERS RELEASED FROM PRISON IN 1994, 24 (2003). Moreover, studies by Canadian researchers, who examined recidivism statistics for 29,000 sex offenders in North America and Europe, found a 14% recidivism rate among all sex offenders, though child molesters were re-arrested at a slightly higher rate of about 20%. *See* R. Karl Hanson & Monique T. Bussiere, *Predicting Relapse: A Meta-Analysis of Sexual Offender Recidivism Studies*, 66 J. OF CONSULTING & CLINICAL PSYCHOL. 348-362 (1998); R. KARL HANSON & KELLY MORTON-BOURGON, PREDICTORS OF SEXUAL RECIDIVISM: AN UPDATED META-ANALYSIS (2004). *See also* OHIO DEP'T OF REHAB. & CORR., TEN-YEAR RECIDIVISM FOLLOW-UP OF 1989 SEX OFFENDER RELEASES 12, 24 (2001) (reporting total sex offense related recidivism rate of 11% over ten-year period, and characterizing such recidivism as a "fairly unusual" occurrence in Ohio).

While it is true that official recidivism data – for any offense type – always underestimates actual re-offense rates, it is clear, based on the research discussed above, that the majority of sexual offenders are unlikely to commit new sex offenses.[5]

---

[5] Some studies, based on older data, have suggested higher recidivism rates. *See e.g.*, Robert A. Prentky, Austin F.S. Lee, Raymond A. Knight & David Cerce, *Recidivism Rates Among Child Molesters*

(Continued on following page)

D. The Current Chaos in Iowa and Nearby States Illustrates the National Significance of the *Doe* Decision.

The existing situation in Iowa and surrounding states demonstrates the national significance of this case.

As discussed above, housing in large Iowa cities, with numerous schools and daycares, is already off limits to sex offenders subject to the statute. *See Doe v. Miller*, 298 F.Supp.2d at 851. In the wake of the Eighth Circuit's ruling, "unprotected" smaller towns (i.e., those that do not have a school or daycare) have rushed to pass ordinances prohibiting sex offenders from living within 2000 feet of parks or other places where children might be expected to congregate.[6] Moreover, fearful that Iowa sex offenders will

---

and Rapists: A Methodological Analysis, 21 LAW & HUM. BEHAV. 635, 643 (1997) (reporting an estimated recidivism rate of 52%). Drawing conclusions about current recidivism rates based upon old data is unwarranted, however. For example, the subjects of the Prentky study were sex offenders released from prison during the period 1959-1985, before treatment became widespread and state-of-the-art. Additionally, the subjects were the proverbial "worst of the worst," men who were civilly committed for repeat and/or aggressive sex offenses. Because the subjects of the Prentky study were not necessarily representative of sex offenders generally, the authors issued two caveats: (1) "[t]he obvious heterogeneity of sexual offenders precludes automatic generalization of the *rates* reported here to other samples," and (2) "these findings should *not* be construed as evidence of the inefficacy of treatment," since "the treatment services [available to the subjects of the study] were not provided uniformly or systematically and did not conform to a state-of-the-art mode." *Id.* at 656-57 (emphasis in original).

[6] *See, e.g.*, Jaime Copley, *Kanawha Passes Sex Offender Ordinance*, KIMT – NEWSCHANNEL 3, Oct. 18, 2005, *available at* http://www.kimt.com/servlet/Satellite?pagename=KIMT/MGArticle/IMT_BasicArticle&c=MGArticle&cid=1128767621404&path; Thomas Geyer, *Scott Co. Board unveils sex offender law*, QUAD-CITY TIMES, Nov. 1, 2005, *available at* http://www.qctimes.net/articles/2005/10/21/news/local/doc43587d34464b1561452000.txt; Elizabeth Owens, *Council passes sex offender ordinance*, DES MOINES

(Continued on following page)

try to move there, numerous towns in nearby Nebraska and South Dakota have passed, or are considering enacting, ordinances prohibiting sex offenders from relocating there.[7]

Moreover, numerous municipalities across the country have recently passed, or are considering enacting, sex offender residency statutes,[8] and will likely point to the Eighth Circuit's decision as proof that these statutes pass constitutional muster.

Sex offender residency statutes ultimately harm the nation's children. As sex offenders are denied housing and forced to move from their social support, recidivism rates

---

REGISTER, Oct. 21, 2005, *available at* http://desmoinesregister.com/apps/pbcs.dll/article?AID=/20051021/NEWS05/510210328/1001/NEWS.

[7] *See, e.g.*, Katie Backman, *Sex offenders may be subject to housing restrictions*, DAILY NEBRASKAN, Oct. 27, 2005, *available at* http://www.dailynebraskan.com/vnews/display.v/ART/2005/10/27/43606f5094b33; *Omaha Councilman Wants Sex Offender Law*, KETV, Oct. 18, 2005, *available at* http://www.ketv.com/news/5120178/detail.html; *Papillion Looks At Sex Offender Ordinance: Iowa's Law Prompts Nebraska Communities to Consider Limits*, KETV, Oct. 17, 2005, *available at* http://www.ketv.com/news/5109357/detail.html; Christian Richardson, *Area towns follow Iowa's lead on sex offenders*, SIOUX CITY JOURNAL, Oct. 19, 2005, *available at* http://www.siouxcityjournal.com/articles/2005/10/19/news/local/3951e43b3d21d4278625709f000d5062.txt; Frank Santiago, *Nebraska city aims to thwart Iowa sex offenders*, DES MOINES REGISTER, Sept. 21, 2005, *available at* http://www.dmregister.com/apps/pbcs.dll/article?AID=/20050921/NEWS01/509210345/1001.

[8] *See, e.g.*, Rebecca Dellagloria, *Law restricting sex offenders passes*, MIAMI HERALD, Aug. 28, 2005, *available at* http://www.miami.com/mld/miamiherald/news/local/states/florida/counties/miami-dade/cities_neighborhoods/northwest/12481301.htm; TOWNSHIP OF MANALAPAN, N.J., MUN. CODE § 187-01 (2005), *available at* http://www.twp.manalapan.nj.us/agenda/ords/5_29_0824.pdf; Kirk Beldon Jackson, *Whitehall adopts sex offender law: Restrictions bar them from living in all but small part of township*, THE MORNING CALL, OCT. 18, 2005, *available at* http://www.mcall.com/news/local/all-b1-5whitehalloct18,0,6114534.story?coll=all-newslocal-hed.

will likely increase. If this happens, the innocent people whom these statutes are designed to protect – children – will be injured.

CONCLUSION

For the foregoing reasons, Petitioners' writ of certiorari should be granted.

Respectfully submitted,

ROBERT F. LAUFMAN
Counsel of Record
OF COUNSEL, GERHARDSTEIN,
BRANCH & LAUFMAN
617 Vine Street
Suite 1409
Cincinnati, Ohio 45202
(513) 621-9100

DAVID A. SINGLETON
OHIO JUSTICE & POLICY CENTER
617 Vine Street
Suite 1301
Cincinnati, Ohio 45202
(513) 421-1108